

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

LARRY JAQUESS,
Plaintiff,
vs.
US,
Defendants.

2:16-cv-01710-APG-VCF
ORDER

Before the Court are Plaintiff's Motion for Appointment of Counsel (ECF No. 55) and Motion for Recreation Materials (ECF No. 58). The Court ordered Plaintiff to file an amended complaint by February 6, 2017. (ECF No. 49). To date, no amended complaint has been filed. The Motion for Recreation Materials (ECF No. 58) is premature.

A litigant in a civil rights action does not have a Sixth Amendment right to appointed counsel. *Storseth v. Spellman*, 654 F.2d 1349, 13253 (9th Cir. 1981).

The court may appoint counsel under 28 U.S.C. § 1915 only under exceptional circumstances. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved. Neither of these factors is dispositive and both must be viewed together before reaching a decision.” *Id.* (citations and internal quotation marks omitted). The court has reviewed the filings in this case. Here, the Court does not find exceptional circumstances that warrant the appointment of counsel.

1 Accordingly,

2 IT IS HEREBY ORDERED that Plaintiff's Motion for Appointment of Counsel (ECF No. 55) and
3 Motion for Recreation Materials (ECF No. 58) are DENIED.

4 **NOTICE**

5 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
6 writing and filed with the Clerk of the Court within (14) days. The Supreme Court has held that the courts
7 of appeal may determine that an appeal has been waived due to the failure to file objections within the
8 specified time. Thomas v. Arn, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
9 objections within the specified time and (2) failure to properly address and brief the objectionable issues
10 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
11 *District Court. Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
12 *Dist.*, 708 F. 2d 452, 454 (9th Cir. 1983).

13 Pursuant to Local Special Rule 2-2, the Plaintiff must immediately file written notification with
14 the court of any change of address. The notification must include proof of service upon each opposing
15 party or the party's attorney. Failure to comply with the Rule may result in dismissal of this action.

16 See LSR 2-2.F

17 DATED this 24th day of May, 2017.

18 
19 CAM FERENBACH
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25